

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL DUANE SMITH,

Plaintiff,

Case No. 05-70467

v.

District Judge Arthur J. Tarnow
Magistrate Judge R. Steven Whalen

CITY OF MOUNT CLEMENS,
a Municipal Corporation, MT. CLEMENS
POLICE DEPARTMENT, et al, OFFICER
STEVEN ANDREWS in his individual
and official capacity,

Defendants.

**ORDER REGARDING EX PARTE MOTION
FOR EXPERT WITNESS COSTS**

Plaintiff, who is represented by *pro bono* counsel appointed by this Court, has filed an ex parte motion requesting payment of costs for expert witness [Docket #67]. Plaintiff requests \$6,000.00 to retain Larry Danaher, of Lafayette, Indiana, as an expert witness in police policy and procedure, police training, police misconduct, and use of force by the police.

The rules and instructions regarding reimbursement from the Court's non-appropriated fund are found on the Court's internet site. The maximum amount that may be disbursed in any case is \$2,000.00, "unless substantial documentation is provided

indicating that additional reimbursement is warranted.” Further, requests that exceed \$2,500.00 require the approval of the Chief Judge.

Attorneys may obtain payment for expert or investigative services, upon the approval of the judicial officer to whom the case is assigned. However, requests must first be submitted to the Court Administrator for review and recommendation to the assigned judicial officer. *See* Instructions, ¶ (1)(b). Requests must also be made on a form available at the Clerk’s Office, or on the Court’s internet site. *Id.*, ¶ (3)(b).

In this case, two points must be made, one procedural and one substantive. Procedurally, Plaintiff is required to follow the above protocol for requesting expert witness funds. Substantively, the Court is not convinced, based on the information presently before it, that Plaintiff has justified expert expenses as high as \$6,000 for an out-of-state expert. The Court notes that there are expert witnesses in the field of police procedure, use of force, etc., within the Eastern District of Michigan. Moreover, any amount over \$2,500 would require the approval of the Chief Judge.

Therefore, Plaintiff’s ex parte motion for expert witness fees [Docket #67] is **CONDITIONALLY GRANTED IN PART**, conditioned on review and recommendation by the Court Administrator, in the amount of \$2,000.

Within 14 days of the date of this Order, Plaintiff’s counsel will submit his request, on the form provided by the Clerk’s Office, to the Court administrator for review.

This Order is without prejudice to the Plaintiff requesting Chief Judge approval for additional funds.

SO ORDERED.

S/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: May 30, 2008

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served on the attorneys and/or parties of record by electronic means or U.S. Mail on May 30, 2008.

S/Gina Wilson
Judicial Assistant